

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF WEST VIRGINIA
HUNTINGTON

UNITED STATES OF AMERICA

v.

CRIMINAL NO. 3:08-00251
26 U.S.C. § 7201

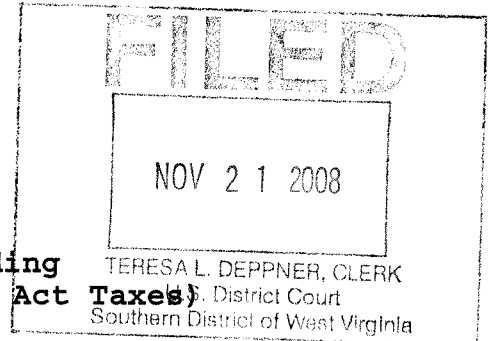
TERRY M. BOWLING

I N F O R M A T I O N

The United States Attorney Charges:

COUNT ONE

(Evasion of Federal Withholding
and Federal Insurance Contributions Act Taxes)



At all relevant times:

1. Defendant TERRY M. BOWLING owned and operated Med-Serv, Inc. a business located in Barboursville, Cabell County, West Virginia which provided non-emergency medical transportation for individuals to attend medical appointments and to receive medical care and dialysis.

2. Defendant TERRY M. BOWLING owned and operated TKH, Inc d/b/a Kelly's Irish Tavern I, a business located in Huntington, Cabell County, West Virginia which was a local bar.

3. From at least 2005 forward defendant TERRY M. BOWLING also owned and operated Shamrock Holdings, LLC d/b/a Kelly's Irish Tavern II which leased five limited video lottery machines at the same location in Huntington, Cabell County, West Virginia as Kelly's Irish Tavern I. The legal entity Shamrock Holdings, LLC was established in the names of nominees for the purpose of complying with licensing and registration requirements of the State of West Virginia.

4. Med-Serv, Inc. and TKH, Inc. had anywhere from ten to twenty employees on its payroll at any given time. Shamrock Holdings, LLC did not have an employee payroll.

5. As employers, Med-Serv, Inc. and TKH, Inc. were required to collect, account for and pay over to the Internal Revenue Service ("IRS") certain taxes, known as "trust fund taxes," from the wages of their employees. Trust fund taxes included withheld federal income tax and the employee's share of the Federal Insurance Contributions Act (Medicare and Social Security) taxes (hereinafter referred to as "FICA" taxes). Med-Serv, Inc. and TKH, Inc. were also required to account for and pay over to the IRS the companies' share of the FICA taxes. Together the trust fund taxes and the companies' share of the FICA taxes were referred to as "employment taxes."

6. Defendant TERRY M. BOWLING was the responsible person at Med-Serv, Inc. and TKH, Inc. required to collect, account for and pay over to the IRS the trust fund taxes from the employees' wages and the companies' share of the FICA taxes.

Tax Evasion

7. From at least January 1, 2002 and continuing through 2006, at or near Cabell County within the Southern District of West Virginia and elsewhere, defendant TERRY M. BOWLING did willfully attempt to evade and defeat a large part of the federal income taxes withheld from wages and FICA taxes due and owing by Med-Serv, Inc. and TKH, Inc. to the United States of America.

Affirmative Acts of Evasion

8. In order to evade payment of the federal trust fund taxes and FICA taxes due and owing by Med-Serv, Inc. and TKH, Inc. to

the United States of America, defendant TERRY M. BOWLING willfully committed at least one of the following affirmative acts of evasion:

a. At all relevant times, defendant TERRY M. BOWLING withheld trust fund taxes from certain Med-Serv, Inc. and TKH, Inc. employees' payroll checks but failed to file with the IRS Employer's Quarterly Federal Tax Return, Form 941, thereby concealing from the IRS the wages paid by Med-Serv, Inc. and TKH, Inc. to its employees and the employment taxes due and owing to the United States of America.

b. At all relevant times, defendant TERRY M. BOWLING paid cash wages to certain employees of TKH, Inc., thereby concealing from the IRS the wages paid to employees by TKH, Inc. and employment taxes due and owing to the United States of America.

c. At all relevant times, defendant TERRY M. BOWLING failed to collect and account for trust fund taxes for certain employees of TKH, Inc. who were paid cash wages.

d. At all relevant times, defendant TERRY M. BOWLING failed to pay over trust fund taxes of employees of Med-Serv, Inc. and TKH, Inc. and failed to pay over the companies' FICA contribution to the United States of America.

e. Defendant TERRY M. BOWLING regularly diverted the monies of Med-Serv, Inc. and TKH Inc. to his own personal use and enjoyment.

9. As a result of these and other affirmative acts, defendant TERRY M. BOWLING evaded approximately \$258,710.29 of the employment

taxes due and owing by Med-Serv, Inc. and TKH, Inc. to the United States of America.

In violation of Title 26, United States Code, Section 7201.

COUNT TWO

(Income Tax Evasion)

1. The United States realleges paragraphs 1-6 of Count One as if fully set forth herein.

2. On or about April 15, 2007, at or near Huntington, Cabell County, West Virginia and within the Southern District of West Virginia, defendant TERRY M. BOWLING, a resident of Huntington, West Virginia had and received taxable income in the approximate sum of \$99,641.29 during the calendar year 2006, that upon said taxable income there was owing to the United States of America an income tax in the approximate sum of \$19,861.00 that well-knowing and believing the foregoing facts, defendant TERRY M. BOWLING, did willfully attempt to evade and defeat the said income tax due and owing by him to the United States of America for calendar year 2006 by failing to make an income tax return and by failing to pay to the Internal Revenue Service said income tax.

3. In order to evade the payment of his federal income taxes due and owing to the United States of America and in an effort to conceal from the IRS the nature and extent of his taxable income, defendant TERRY M. BOWLING willfully committed at least one of the following affirmative acts of evasion:

a. On numerous occasions between January 1, 2006 to December 31, 2006, defendant TERRY M. BOWLING issued or caused to be issued checks from the bank accounts of Med-Serv, Inc. and/or TKH, Inc. to third parties including Adelphia, AT&T, AEP, American Express, Bank of America, BB&T and others to pay for his personal living expenses and assets.

b. On numerous occasions between January 1, 2006 to December 31, 2006, defendant TERRY M. BOWLING issued or caused to be issued checks from Med-Serv, Inc. and/or TKH, Inc. made payable to "cash" which he negotiated and used for personal expenditures.

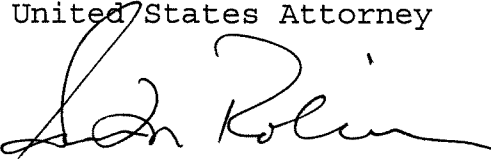
c. From January 1, 2006 to December 31, 2006 defendant TERRY M. BOWLING withdrew at least \$100.00 in currency on a weekly basis from the cash register maintained at Kelly's Irish Tavern I and II.

d. During calendar year 2006, defendant failed to issue or cause to be issued a W-2 or Form 1099 reflecting taxable income received by him from Med-Serv, Inc. and TKH, Inc. In violation of Title 26, United States Code, Section 7201.

UNITED STATES OF AMERICA

CHARLES T. MILLER
United States Attorney

By:


SUSAN M. ROBINSON
Assistant United States Attorney